

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARLOS ARMANDO SAPON SAPON and
FREDY TOMAS BAQUIAX AICHE,
individually and on behalf of others similarly situated,

1:18-cv-11457-SLC

Plaintiffs,

-against-

**DECLARATION IN SUPPORT
OF REQUEST FOR ENTRY
OF JUDGMENT**

HANBAT RESTAURANT, INC (d/b/a HAN
BAT) and NACK GYEUN MUN,

Defendants

-----X

I, MICHAEL FAILLACE, declare and affirm under the penalty of perjury:

1. I am the attorney for Plaintiffs CARLOS ARMANDO SAPON SAPON and FREDY TOMAS BAQUIAX AICHE (“Plaintiffs”) in the aboveentitled action, am a member of the Bar of the State of New York and duly admitted to practice before this Court.

2. I make this declaration in support of Plaintiffs’ request to enter a Judgment, on the basis of my familiarity with the facts and circumstances of the case, the records, papers and pleadings, my investigation into the matter and upon information and belief.

3. Plaintiff’s complaint in this action was filed on December 7 2018. See ECF No. 1. Defendants through their attorneys Do Kyung Kim & Associates, filed their Answer to Plaintiff’s complaint on January 14, 2019. ECF No. 11.

4. After extensive negotiations, Plaintiffs and Defendants entered into a settlement agreement (the “Agreement”). A true and correct copy of the Settlement Agreement is annexed hereto as Exhibit A.

5. On or about October 24, 2019, the parties submitted a settlement agreement which was approved by the Court on November 5, 2019. ECF No.’s 27 and 30.

6. The Settlement Agreement required Defendants to pay Plaintiffs Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00) in three (3) installments, each in the amount of Eleven Thousand Six Hundred Sixty-Six Dollars and Sixty Seven Cents (67/100) (\$11,666.67), which were to be paid on or before October 1, 2019; November 1, 2019; and December 1, 2019. See Exhibit A (Par. 1). Defendants simultaneously executed an Affidavit of Confession of Judgment in the amount of Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00). The Confession of Judgment is annexed hereto as Exhibit B.

7. On November 5, 2019, upon approving the Settlement Agreement, the Court held that “the Court will retain jurisdiction over the settlement agreement for purposes of its enforcement.” ECF No. 30.

8. Defendants did not make any payments under the Settlement Agreement, which constitutes a total of \$35,000.00 unpaid.

9. Defendants’ failure to make the settlement payments to Plaintiffs constitutes a default under the Agreement.

10. Plaintiffs provided Defendants with notice of default of the Agreement on January 23, 2020. A true copy of the letter and email are collectively annexed hereto as Exhibit C.

11. Defendants’ counsel responded and requested that Defendants be permitted to make the first payment on February 25; the second on April 25; and last on June 25, 2020. Exhibit D (email chain reflecting agreed-upon revised payment schedule). Plaintiffs’ counsel agreed to the revised schedule. Exhibit D. Defendants failed to pay the first installment on February 25, 2020.

12. Defendants have not cured the default.

13. Based on the foregoing, I kindly request on behalf of Plaintiffs that this Honorable Court enter judgement in favor of Plaintiffs CARLOS ARMANDO SAPON SAPON and FREDY TOMAS BAQUIAX AICHE against the Defendants HANBAT RESTAURANT, INC (d/b/a HAN BAT) and NACK GYEUN MUN in the amount of Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00).

14. A proposed judgment is annexed hereto.

15. I declare pursuant to 28 U.S.C. § 1746 under penalty of perjury that the foregoing is true and correct to the best of my knowledge and understanding.

Dated: New York, New York
March 24, 2020

Respectfully submitted,

By: Michael Faillace
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